

Exhibit 31

1 settles before they go forward with Chapter 9, which is
2 -- this is the way they set it up, is that once she
3 settles, everybody will say, all right, this is okay.

4 MS. STRICKLAND: [inaudible]

5 MR. STRICKLAND: It's fine. We don't need to
6 do anything.

7 MR. SMITH: I've been told that's totally
8 separate and whatever recommendations -- again, that's
9 not my area, Cooper, so I --

10 MR. STRICKLAND: How would that work, though?
11 Just from a framework, how would that work? Because it
12 sounds like Tony's not going anywhere. That
13 determination has been made. He was investigated. He's
14 still there. He can't even be disqualified from this
15 process like a judge would be.

16 MR. SMITH: He's not disqualified from
17 mediation, because he has no power here. He's just the
18 unit head and he's negotiating with me and if you
19 removed Tony, there's nobody I can talk to, to resolve
20 this, because nobody has authority to -- to say, well,
21 Caryn can be transferred or [inaudible].

22 MR. STRICKLAND: What the plan sets forth for

1 judges is the judicial counsel steps in and fills that
2 role. Counseling, mediation and the hearing. Yet Tony
3 gets a different standard.

4 MR. SMITH: Well, it's -- again, it's because
5 of the way it's set up. You're right. If -- if -- not
6 to say anything about Judge Gregory, let's say there
7 was a complaint about Judge Gregory.

8 Well, he's head of the program. Well, he
9 couldn't preside over it and so it would jump up. But
10 it's the decision making and the hearing that -- that
11 the EDR is talking about there. I've had many
12 complaints where the unit head was the issue and they
13 always handled the mediation.

14 Now, when it goes to a hearing, you know, and
15 if this goes to a hearing, it'll be up to the chief
16 judge to decide who the hearing officer is. It can be
17 the chief judge or generally they'll delegate it to
18 somebody. I have no idea what they would do in this
19 case.

20 But you know, Tony -- you can't have somebody
21 come in and defend Tony in his office. Tony's the only
22 one that can do that, if he's going to. If anybody is

1 going to defend them. Because he's the only one that
2 knows what happens.

3 You know, he knew the -- and -- and there's
4 just -- that's why it works this way. I -- I understand
5 your difficulty.

6 MS. STRICKLAND: It seems like a -- very much
7 a conflict of interest, but you know, because part of
8 the thing is if you had an independent person who was
9 acting on Tony's behalf, they might be able to say,
10 God, he's really being silly, the way he's saying this
11 about office space or that about -- I mean, just --

12 MR. STRICKLAND: Appeals.

13 MS. STRICKLAND: Appeals, well and that was
14 the other thing I wanted to ask you is, you know, I
15 feel like this is all kind of hinging on -- I mean, I
16 get it. I get his bottom line appears to be
17 telecommuting versus having a desk in Ashville.

18 You know, but my bottom line is assistant
19 federal defender with an appeals case load, based on
20 the choice that he promised me and the fact that JP is
21 in charge of the entire trial division.

22 And I haven't heard -- I mean, what's the

1 and I heard Tony come in and say, I'll just promise you
2 he won't show up in Ashville anymore and I promise you
3 even though I'm going to make you do trial work, JP
4 won't do anything to you, because even though he's
5 still first assistant and over all of that, I just -- I
6 don't think that's going to -- nobody's going to buy
7 that.

8 MR. SMITH: Well, what I mean by that --

9 MR. STRICKLAND: Is it because they won't
10 micromanage the office?

11 MR. SMITH: Well, partly. One, what I'm mainly
12 talking about is you're not going to get what you want,
13 a lot of what you want is the backtalk and the optics
14 of the whole thing to go away and that's not going to
15 happen.

16 I think that goes away more likely if you have
17 a settlement agreement, because to me that vindicates
18 you, that Tony had to sit down and resolve this because
19 you were wronged.

20 That's mainly what I'm talking about, but to
21 get back to your other thing, it's like telecommuting.
22 If you go look at the telecommuting police of the

1 Fourth Circuit, it's the unit head's decision and it
2 can be revoked at any time.

3 There is no right and that's specifically in
4 the policy, there is no right of an employee to
5 telecommute and if Tony doesn't re-up and somebody else
6 comes in, I mean, first thing they could do is tear it
7 up.

8 Therefore I think in drafting a settlement
9 agreement that binds Tony, you have the better ability
10 to work these things in there, because I don't think
11 the judge is going to micromanage this office and tell
12 a federal defender how to do his job and run his
13 office.

14 They'd be better off terminating him. They
15 would -- to me, terminate him first.

16 MS. STRICKLAND: Mm-hmm.

17 MR. SMITH: But that's not something, the way
18 I read the EDR, and I'm not giving any legal advice,
19 that would allow you to put in a [inaudible] for relief
20 that JP or Tony be terminated.

21 MS. STRICKLAND: Right.

22 MR. SMITH: I think you all read it the way I

1 read it.

2 MR. STRICKLAND: These seem like problems that
3 would exist in any EDR situation.

4 MR. SMITH: They do.

5 MR. STRICKLAND: Where you have a unit
6 executive. So what's the point of having a hearing
7 officer?

8 MS. STRICKLAND: Part of it -- yeah, I mean,
9 part of my feeling is that this all seems like a sham.
10 Like why am I even doing this?

11 MR. STRICKLAND: It's a kangaroo court.

12 MS. STRICKLAND: When there's no -- I mean,
13 and there's no outside review of this. There's no
14 possibility that I can sue. I mean, it's just -- I just
15 have to -- and that's part of my feeling of like, you
16 know, he's going to have to do a lot to show me.

17 It's not going to just be enough, well, I
18 guess we can find you -- we can give you the intern's
19 desk. It's an attitude. I mean, it's -- you know.

20 MR. SMITH: Well, no, he's not giving you the
21 intern's desk, but we don't need to talk about that
22 right now, but --